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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/656,299 09/06/00 MOYERSON

J. 204,797

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TM02/0926

EXAMINER

WASYLCHAK, S

ART UNIT

PAPER NUMBER

2164

DATE MAILED:

*Restart*  
~~09/26/01~~  
12-12-01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/656299

Applicant(s)

MOYERSON

Examiner

WASYLCHAK

Group Art Unit

2164

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 9/6/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-9 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 2, 3, 4, 5, 8 is/are allowed.
- ☒ Claim(s) 1, 6, 7, 9 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

**DETAILED ACTION**

1. Claims 2, 3, 4, 5 and 8 are allowed.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pettit et al (US 5,551,692).

As per Claim 1,

A method of selling and purchasing at least one object of purchase over a computer network, said method comprising the following steps:

- a. utilizing a software program on a computer of a purchaser to search for and find a site on said computer network offering said at least one object of purchase; /  
col 1, L 33-54. The reference fails to teach the features of software on a purchaser's computer.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art, for example in the form of modified cookies to contain purchasing software. It would have been obvious to one of feature for the advantage of immediate exposure to free items and thus increase the ordinary skill in the art at the time of applicant's invention to implement this feature to increase the possibility of sales.

- b. browsing through an on-line catalog at said site to find said at least one object of purchase, each of said at least one object of purchase having attributed to it a probability of obtaining said each of said at least one object of purchase at no cost to said purchaser; / col 1, L 33-54
- c. selecting said at least one object of purchase for purchase; / col 1, L 33-44
- d. confirming an order for said at least one object of purchase; / col 1, L 33-54.

The reference fails to teach the feature of confirmation.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of avoiding bookkeeping errors and thus keeping an accurate set of books.

- e. determining whether payment must be made for said each of said at least one object of purchase; and / col 1, L 34-54
- f. paying for only those objects of purchase from said at least one object of purchase for which payment was determined to be required in step e. / col 1, L 37-54

As per Claim 6,

A system for selling at least one object of purchase over a computer network, said system comprising:

- a. an on-line catalog; / col 1, L 33-44. The reference fails to teach the feature of on-line catalog.

Official notice is taken that this feature is old and well known in

Art Unit: 2164

the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of increased product visibility to thus enhance the possibility of future sales.

b. a virtual shopping basket; and / col 1, L 33-44. The reference fails to teach the feature of a virtual shopping basket.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of increased product convenience to thus enhance the possibility of future sales.

c. software for determining whether a particular one of said at least one object of purchase shall be offered free to a purchaser. / col 1, L 33-44; col 4, 35-59

4. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girouard et al (US 4,982,346)

As per Claim 7,

A system for selling at least one object of purchase over a computer network as claimed in claim 6, wherein said software comprises:

a. a program to produce a user interface allowing a merchant to select one of at least one algorithm for determining whether a particular one of said at least one object of purchase shall be offered free to said purchaser, said selection being with

regard to one object of purchase in said on-line catalog; / col 24: claim 2. The reference fails to teach the feature of on-line catalog.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of increased product visibility to thus enhance the possibility of future sales.

b. said at least one algorithm; and / col 24: claim 2  
c. a program to produce a user interface displaying to a merchant the particular one(s) of said one object of purchase in said on-line catalog offered free to purchasers. / col 23: claim 1. The reference fails to teach the feature of on-line catalog.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of increased product visibility to thus enhance the possibility of future sales.

As per claim 9,

A system for selling at least one object of purchase over a computer network as claimed in claim 6, wherein said on-line catalog notifies a potential purchaser of the probability of obtaining at least one item therein at no cost. / col 24: claims 2, 3, 4 and 6. The reference fails to teach the feature of on-line catalog.

Official notice is taken that this feature is old and well known in

Art Unit: 2164

the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of increased product visibility to thus enhance the possibility of future sales.

This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Friday from 7:00 a.m. to 6:00 p.m. EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 2164 is (703) 308-1396.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Steven Wasylchak.



9 /20/01



VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
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